



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 25, 2005

Ms. Carol Longoria  
Public Information Coordinator  
The University of Texas System  
201 West Seventh Street  
Austin, Texas 78701-2902

OR2005-03495

Dear Ms. Longoria:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 222635.

The University of Texas at El Paso (the "university") received a request for the proposal submitted by the Pepsi Bottling Group ("Pepsi"), and for the contract between Pepsi and the university. You state that the contract has been released to the requestor. Although the university makes no arguments and takes no position as to whether the remaining requested information is excepted from disclosure, pursuant to section 552.305 of the Government Code, you notified Pepsi, the interested third party whose information is at issue, of the request and of its opportunity to submit comments to this office. *See* Gov't Code § 552.305 (permitting interested third party to submit to attorney general reasons why requested information should not be released); Open Records Decision No. 542 (1990) (determining that statutory predecessor to section 552.305 permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure in certain circumstances). We have received correspondence from Pepsi. We have considered Pepsi's arguments and reviewed the information you submitted.

We note that Pepsi seeks to have certain information withheld from the requestor that was not submitted to us for review by the university.<sup>1</sup> Accordingly, this ruling does not address

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<sup>1</sup>Pepsi seeks to withhold the portion of the proposal captioned "Marketing and Additional Revenue Opportunities."

information related to Pepsi beyond that which was submitted to us for review by the university and is limited to the information submitted as responsive by the university. *See* Gov't Code § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested, or representative sample if voluminous amount of information was requested). As Pepsi does not raise any exceptions to disclosure of the submitted information, it must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

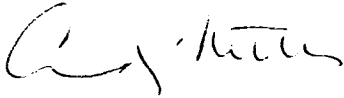
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/krl

Ref: ID# 222635

Enc. Submitted documents

c: Mr. Manny Aguilar  
Magnolia Coca-Cola Bottling Company  
1101 Gateway Boulevard West  
El Paso, Texas 79935  
(w/o enclosures)

Mr. Bill Naylor  
Pepsi Bottling Group  
4242 East Raymond Street  
Phoenix, Arizona 85040  
(w/o enclosures)

Mr. Carlo Massaro  
Counsel  
Pepsi Bottling Group  
1 Pepsi Way  
Somers, New York 10589  
(w/o enclosures)